

SENATE RECORD VOTE ANALYSIS

106th Congress
1st Session

Vote No. 203

July 14, 1999, 1:25 p.m.
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HEALTH INSURANCE REFORM/Breast Cancer Care, Cancer Second Opinions

SUBJECT: Patients' Bill of Rights Act . . . S. 1344. Snowe/Abraham amendment No. 1241 to the Dodd amendment No. 1239 to the Daschle substitute amendment No. 1232.

ACTION: AMENDMENT AGREED TO, 55-45

SYNOPSIS: As introduced, S. 1344, the Patients' Bill of Rights Act, contains the text of S. 6, a health insurance regulation bill proposed by Senator Kennedy and other Democrats. The bill: will regulate the structure and operation of all health insurance products at the Federal level; will impose extensive mandates on consumers, health insurers, and employers; and will create new rights to sue employers and insurers for unlimited compensatory and punitive damages. As estimated by the Congressional Budget Office (CBO), this Democratic plan will cause insurance premiums to rise by an average of 6.1 percent (which will be in addition to any increases from inflation or other causes). The 6.1-percent cost increase, which will total \$72 billion over 5 years, will cause approximately 1.8 million Americans to lose their health insurance coverage.

The Daschle substitute amendment would enact some of the provisions of the Patients' Bill of Rights Plus Act (S. 300) as proposed by Republican Members. (Senator Daschle offered the amendment so that Democrats could propose amendments to it). The Republican bill: would enact consumer protections standards for federally regulated health insurance plans; would require all private group health plans to provide a wide range of comparative information about health insurance coverage; would require all private group health plans to have written grievance procedures, internal appeals processes, and independent external appeals processes; would prohibit all private group and individual health plans from denying coverage, adjusting premiums, or adjusting rates based on genetic history or testing; would give self-employed individuals a full tax deduction for their health insurance costs immediately (currently a full deduction is being phased in; the Daschle amendment dropped this reform); and would give every American the option of starting medical savings accounts (MSAs; the Daschle amendment dropped this reform as well). The CBO estimates that the Republican plan would raise premiums an average of .8 percent. However, its net effect would be to increase the total number of insured Americans because it also would give them access to MSAs and would make insurance more affordable for

(See other side)

YEAS (55)		NAYS (45)		NOT VOTING (0)	
Republicans (55 or 100%)	Democrats (0 or 0%)	Republicans (0 or 0%)	Democrats (45 or 100%)	Republicans (0)	Democrats (0)
Abraham	Hutchinson	Akaka	Kennedy		
Allard	Hutchison	Baucus	Kerrey		
Ashcroft	Inhofe	Bayh	Kerry		
Bennett	Jeffords	Biden	Kohl		
Bond	Kyl	Bingaman	Landrieu		
Brownback	Lott	Boxer	Lautenberg		
Bunning	Lugar	Breaux	Leahy		
Burns	Mack	Bryan	Levin		
Campbell	McCain	Byrd	Lieberman		
Chafee	McConnell	Cleland	Lincoln		
Cochran	Murkowski	Conrad	Mikulski		
Collins	Nickles	Daschle	Moynihan		
Coverdell	Roberts	Dodd	Murray		
Craig	Roth	Dorgan	Reed		
Crapo	Santorum	Durbin	Reid		
DeWine	Sessions	Edwards	Robb		
Domenici	Shelby	Feingold	Rockefeller		
Enzi	Smith, Bob (I)	Feinstein	Sarbanes		
Fitzgerald	Smith, Gordon	Graham	Schumer		
Frist	Snowe	Harkin	Torricelli		
Gorton	Specter	Hollings	Wellstone		
Gramm	Stevens	Inouye	Wyden		
Grams	Thomas	Johnson			
Grassley	Thompson				
Gregg	Thurmond				
Hagel	Voinovich				
Hatch	Warner				
Helms					

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

self-employed Americans.

The Dodd amendment would require an insurance plan to cover the costs of a patient's participation in a clinical trial sponsored or funded by the National Institutes of Health, the Department of Defense, or the Veterans' Administration if the patient fit the trial protocol, no effective treatment existed, and the patient had a serious or life-threatening condition. The amendment would also enact limits on drug formularies (lists of covered drugs) that insurers could develop and would expand the requirements for health insurance plans to provide drugs outside of their formularies at formulary prices.

The Snowe/Abraham amendment would strike the language of the Dodd amendment and would insert provisions to require all group health plans to allow doctors and their patients to determine in each case the appropriate amount of time a woman should stay in a hospital after a breast cancer operation (mastectomy, lumpectomy, or lymph node dissection). The decision would be based solely on what was necessary and appropriate for the patient. Also, it would require all group health plans to give their patients that had been diagnosed as having cancer the right to receive second opinions from specialists; members of health maintenance organizations (HMOs) would have to provide coverage for consultations that their members sought from specialists outside of their provider networks.

Those favoring the amendment contended:

The Snowe/Abraham amendment would provide much better protections for women with breast cancer than the protections that our Democratic colleagues have proposed, and it would also enact protections for patients who had been diagnosed as having cancer. Unlike the Democrat's proposal, this amendment would not attempt to legislate what is and is not medically necessary when deciding the length of hospital stays for women who have had breast cancer surgery. It would avoid that pitfall altogether by leaving that decision entirely in the hands of the doctor and the patient. We are all well aware of the complicated nature of mastectomies, so we have proposed here an option for doctors and patients to work together to decide what the appropriate post-operation stay would be for each unique case. There would be no minimum stay requirement, and outpatient treatment would also be covered if the patient and her doctor agreed that such a move would be the best course. Regarding cancer diagnoses, this amendment would require HMOs to allow any person who was diagnosed as having cancer of any type to get a second opinion on his or her course of treatment. Group health plans would have to pay for visits for second opinions concerning any types of cancer, even when the specialists determined that the patients did not have cancer, and even when the specialists were outside their provider networks.

Not one Senator has complained about the substance of the Snowe/Abraham amendment. Every argument against it has been by Democrats and has been about procedure. Our Democratic colleagues, one after another, have complained about partisanship. They ought to look in the mirror. The first vote we had on this bill was, partially, on the subject of breast cancer. The amendment that was offered was a second-degree amendment that could not be amended and that was superfluous in that it restated, word for word, language that was already in the underlying bill. Most Republicans, but not all, opposed that particular section of the Democratic amendment because it tried to define "medical necessity" statutorily. No definition should be enacted because medical science is changing rapidly and because each person's medical situation is unique, and therefore it is impossible to come up with a good definition of what is necessary that applies to every case. Further, the definition that was used was so bad that it basically would have approved any treatment, however ineffectual, unusual, or even harmful, as long as it was a generally accepted practice. Now our Democratic colleagues are complaining that we did not try to work out language with them on that amendment. How could we? It was a second-degree amendment, and it just restated what was in their bill in the first place. It obviously was not offered with any intent of reaching a compromise agreement; the clear intent was to try to portray Republicans as being against protecting women's health. Democrats knew that their definition of medical necessity was unacceptable to most Republicans, and for precisely that reason they included it. Democrats' other procedural complaint against the Snowe amendment is that it would strike the underlying Dodd amendment. They and we know that excuse is nonsense. They know full well that under the unanimous consent agreement governing the consideration of this bill they will have multiple chances to offer the Dodd amendment as a second-degree amendment on which a vote will have to be held.

Our Democratic colleagues' complaints on procedure are untenable. They have not raised any objections to the substance of the amendment. It clearly is meritorious and should be approved.

Those opposing the amendment contended:

Republicans are being partisan. They have proposed an amendment on hospital stays after breast cancer surgery without attempting to work with Democrats in any way on coming up with a bipartisan approach to the issue, and they have also constructed this amendment so that it would eliminate the underlying Dodd amendment. The Dodd amendment would expand the ability of women and children to participate in clinical trials of experimental treatments. Many times patients, including women and children, have terminal illnesses for which there is no known effective treatment, and clinical trials of experimental treatments offer them their only hope of survival. Our colleagues on the right would have us carelessly plunge ahead without any regard for the potential risks for women and children that would come from striking the provisions of the Dodd amendment. We oppose this partisan amendment.